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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,076	11/18/2003	Alain Touma	Touma	4786

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MARCIA A. DEVON  
DEVON & ASSOCIATES  
400 OCEANGATE BLVD., SUITE 800  
LONG BEACH, CA 90802

EXAMINER
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MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/716,076

Applicant(s)

TOUMA, ALAIN

Examiner

Steven M. Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the third office action for U.S. Application 10/716,076 for a Baby Bottle Holder filed by Alain Touma on November 18, 2003. Claims 17-23 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 8, 2005 has been entered.

#### ***Claim Rejections - 35 USC § 112***

Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 18 claims that the second end of the strap "is releasably attached to the second surface". However, this feature is not shown in the drawings or mentioned in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 15 recites the limitation "said front surface to the back surface" in line 6 of the claim. There is insufficient antecedent basis for this limitation in the claim. Claim 17 recites the limitation "said first and second surfaces extending between said first and second surfaces". It is not clear what Applicant is claiming and this claim is being examined to the best extent possible.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,850,393 to Marquard. Marquard discloses a bottle holder for use with a bottle containing a liquid with a grip (14) formed of a pliant material with a upper surface (the top) and a lower surface (bottom) and a first arm (left side) and second arm (right side) formed around an opening (30). The opening is adapted to receive and secure the bottle such that the bottle is fixed in a specific position whereby the liquid will be emitted from the bottle by gravity (see fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Des. 379,660 to Aube in view of U.S. Patent 361,131 to Leopold. Aube discloses a grip with a first surface (the left side), a second surface (the right side), an upper surface (the top), and a bottom surface (the bottom). There is a U-shaped concavity for removably engaging the outer surface of a baby bottle, inclined relative to the bottom surface, and extending between the first and second surfaces from a front surface to a back surface. There is also a removable attachment mechanism for securing the grip to baby clothing (Velcro at the bottom and on the bib). The grip is formed from a rectangular-shaped element and there is a plurality of straps (one on each side) with first and second ends. The second end has a fastening mechanism (Velcro) and the first and second ends are attached to the first and second surfaces, respectively.

Aube does not disclose first and second lips in the upper surface of the grip for securing the baby bottle. Leopold discloses a baby bottle holder made of a pliant material (it's designed to grip a bottle and must be pliant to grip it) with first and second lips in the upper surface of the holder for securing a baby bottle. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have

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provided lips at the upper surface of the grip taught by Aube, as taught by Leopold, for the purpose of firmly securing a bottle within the concavity.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Des. 379,660 to Aube in view of U.S. Patent 361,131 to Leopold, and in further view of U.S. Patent 6,098,934 to Skelton. The grip disclose by Aube in view of Leopold is not made of a foam material. However, Skelton discloses a baby bottle holder made of a foam material to provide a gripping surface in conjunction with a strap. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have made the baby bottle support taught by Aube in view of Leopold out of a foam material, as taught by Skelton, to provide a lightweight gripping surface for the bottle.

### ***Response to Arguments***

Applicant's arguments with respect to claims 17-23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone

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number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

*SM*

Steven M. Marsh

September 14, 2005

*Ramon O Ramirez*

**RAMON O. RAMIREZ  
PRIMARY EXAMINER**

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